

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

KATHRYN MARSHALL

CASE NO. C-1-02-189

VENA MARSHALL

Judge Herman Weber

Plaintiffs

Magistrate Judge Hogan

vs.

OHIO DEPARTMENT OF EDUCATION,
et al.

**DEFENDANTS' MOTION FOR
SANCTIONS**

Defendants

Now come defendants and move this Court for an order awarding sanctions against plaintiffs for their failure to comply with this Court's order compelling discovery. This motion is supported by the attached memorandum and the affidavit of Bernard W. Wharton.

/s/ R. Gary Winters

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Bernard W. Wharton 0063487

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MEMORANDUM

On December 13, 2005, this Court ordered plaintiffs to fully and accurately answer the first set of interrogatories and requests for production of documents propounded to them within fifteen days and that plaintiffs should sign a verification sheet for any interrogatory answers which they propound. After that fifteen day period, no answers were forthcoming from plaintiffs. (See ¶ of Affidavit of Bernard W. Wharton). Plaintiffs' counsel and counsel for the defendants have had several telephone conversations in which counsel for defendants generously extended the date by which plaintiffs could respond to the Order Compelling Discovery. (See ¶ of Affidavit of Bernard W. Wharton). However, after two such extensions, counsel for defendant has still not received what was ordered by the Court. (See ¶ of Affidavit of Bernard W. Wharton).

Accordingly, defendants respectfully request that this Court order sanctions be awarded to defendants as decided by the Court, including, but not limited to, the dismissal of this action for failure to prosecute.

Respectfully submitted,

/s/ R. Gary Winters

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CERTIFICATE OF SERVICE

I hereby certify that on the day of January , 2006 , a copy of the foregoing document was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

s/ R. Gary Winters
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